

Subject: Randolph and Poynor Depos

From: "Michael W. Sewright" <mws@bpk.com>

Date: Tue, 07 Mar 2006 14:40:55 -0900

To: Tom Krider <Krider@OLES.com>

Tom,

I thought we had agreement on at least the Randolph deposition. I gave you good reasons several times in writing for re-opening it, not limited to the recent electronic record, and asked you quite a while ago in writing to let me know if I would have to go to the court for permission. You didn't say I did. You instead asked me to switch the depo date from February 28 to late this week, and then March10 specifically, and I did. I certainly took that as no contest to the deposition. If we can do the Randolph depo starting Friday morning, as scheduled, I can cancel the Poynor depo, but I need to know right away. If either witness is not going to show up this week in response to the notices and subpoenas, or both aren't, let me know that right away too. I am having witness fee checks for them sent to your office, but they should cash those only if they are going to appear as scheduled. If necessary, I can take the matter up with the court later, probably in response to your motion for protective order.

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Exhibit 1
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